

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

LEN STOLER, INC. d/b/a LEN STOLER)
AUDI,)
)
Plaintiff,)
)
)
v.) **Case No. 1:15CV1659-TSE/JFA**
)
VOLKSWAGEN GROUP OF AMERICA,)
INC. d/b/a AUDI OF AMERICA, INC.,)
)
Defendant.)
)

)

DEFENDANT AoA'S MOTION TO COMPEL

Pursuant to Federal Rule of Civil Procedure 37, Defendant Volkswagen Group of America, Inc. d/b/a Audi of America, Inc. (“AoA”) moves to compel compliance with its Notice of Deposition pursuant to Fed. R. Civ. P. 30(b)(6) and to reopen the deposition of David Leibowitz, both in his individual capacity and as a representative of Plaintiff pursuant to Rule 30(b)(6).

1. The Motion should be granted for the reasons set forth in the accompanying memorandum.

STATEMENT PURSUANT TO E.D.Va. LOCAL RULE 37(E)

2. As noted and more fully set forth in the accompanying memorandum, counsel for AoA has made a good faith effort to resolve the discovery matters at issue in this motion.

RELIEF REQUESTED

3. For the reasons set forth in the accompanying memorandum, AoA respectfully requests that the Court enter an order:

- a. Granting the motion;
- b. Compelling Plaintiff Len Stoler, Inc. (“Stoler”) to either:

- i. present David Leibowitz or another representative, with adequate preparation, for a Rule 30(b)(6) deposition on Topic No. 12 in AoA's Notice of Rule 30(b)(6) Deposition; or
 - ii. produce documents sufficient to show the data points sought by Topic No. 12 in AoA's Notice of Rule 30(b)(6) Deposition;
- c. Compelling Stoler to present David Leibowitz for a deposition in his individual capacity on:
- i. any subject matter that relates to any of the documents that Stoler produced after Mr. Leibowitz's deposition that pertain to AoA's First RFPD Nos. 1, 17, 18, 19, 20, and 27;
 - ii. Stoler's document systems and its retention and collection of relevant materials for this case;
- d. Compelling Stoler to present David Leibowitz or another representative, with adequate preparation, for a Rule 30(b)(6) deposition on Topic Nos. 1 and 16 in AoA's Notice of Rule 30(b)(6) Deposition;
- e. In the event that the Court orders one or more a subsequent depositions, AoA respectfully requests that the Court order Stoler to pay for AoA's fees and expenses in connection with such deposition(s);
- f. Barring Stoler from presenting any evidence of lost franchise ("blue sky") value of its franchise at the trial of this case; and
- g. Awarding AoA its fees and expenses incurred in connection with this motion.

Dated: September 23, 2016

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2016, I served a true and accurate copy of the foregoing by filing it electronically with the Clerk of the Court using CM/ECF system, which will send a notification of such filing (NEF) to the following:

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